REMARKS

This Response is responsive to the Final Office Action mailed November 1, 2007. Claims 1, 5-10, 14-17, 23, and 24 are pending.

Status of the Claims

In the Office Action, the Examiner indicated that claims 1, 5-10, 14-17, 23, and 24 are rejected. Therefore, claims 1, 5-10, 14-17, 23, and 24 are pending for reconsideration. No amendments are made to the claims, and no claims are added or cancelled in the current office action.

Rejection of Claim 11 under 35 U.S.C. §103(a),

In section 6 of the Office Action, the Examiner rejects claims 1, 5-10, 14-17, and 23-24 under 35 U.S.C. § 103(a) as being unpatentable over McIntyre (US 6,958,821) in view of Davis et al. (US 6,965,682).

The McIntyre reference (i.e., U.S. Patent 6,958,821), provides a digital imaging algorithm which can make intelligent advertising decisions by analyzing the image content of consumer digital images (Specification, column 2, lines 14-17). This is achieved by first scanning a hard copy of an image provided by a user to provide a digital image and sending such image to a memory location. Next, the scanned digital image is automatically analyzed to determine the likelihood that material related to products will be of interest to the user by recognizing features which relate to the product of users, such features being selected from the group consisting of product trademarks, product trade dress, and other products which are related to the third party products. Finally, the algorithm selects one or more items of product material based on their likelihood of interest to the user and sending them to the user for display or printing (Specification, column 2, lines 27-40).

The Davis et al. reference (i.e., U.S. Patent 6,965,682) provides a method for employing watermark data as proxies for media objects and associated applications (Abstract). Davis et al. provides a method of processing watermark data as a pointer to shared resources which is sometimes used in lieu of transmitting from point to point the object with which it is associated, thereby gaining efficiencies in speed and bandwidth (Specification, column 1, lines 48-52). As a prime example, Davis discusses, in column 2 lines 30-44, embedding an "index" or link to a location/website as a digital watermark in a lower quality digital image, wherein the "index" or link points to a location wherein a higher quality version of the watermarked image resides and may be obtained:

> In accordance with one embodiment of the invention, device 14 receives a better image that that sent from device 12. In one such embodiment, device 14 receives the image data captured by device 12. Device 14 recognizes that the image includes a watermark hidden within the image data and decodes same. The watermark payload includes an Index by which a copy of the image can be accessed from a server 20 on the internet or other storage medium. With this index, the second devices 14 queries the server, which returns the image corresponding to this watermark index (in this case, the advertisement) back to the second device 14. The image provided by the server can be higher resolution or pristine, i.e., it has no artificats left from scanning at device 12, etc. Such a procedure is shown by the flowchart of FIG. 2. (Davis et al., specification, column 2, lines 30-44).

Applicants respectfully submit that neither of the McIntyre or Davis et al. references provides the key element of independent claims 1 and 10 of "reading consumer characteristic metadata associated with the digital image". On the bottom of page 4 of the current Office Action, the Examiner admits that McIntyre does not disclose expressly reading consumer characteristic metadata associated with the digital image. Instead, the Examiner states that Davis discloses reading consumer characteristic metadata associated with the digital image, citing column 2 lines 20-25 and 33-40, column 2 lines 62-column 3 line 14, and column 3 lines 28-37).

Applicants readily admit that digital watermarking technology is a well-known technique for hiding or embedding information (such as metadata) within a digital image (see page 10, lines 15-16 of the present invention). However, the present invention and the Davis reference read and process totally different types of metadata information. As described above, Davis is using the digital watermark in a transmitted image to contain an index or link to a higher resolution version of the same image (or alternatively, a link to richer media content associated with the image, e.g., see col. 3, lines 29-37). When this watermark is embedded within the image, it is the image provider, not the consumer, that decides what information to embed in the image, and none of the information is associated in any way with a consumer characteristic.

Thus, Davis neither discloses nor suggests use of embedded "consumer characteristic" metadata, instead Davis uses the metadata to contain information about the image itself (such as hyperlinks to better quality versions of the digital image). Examples of "consumer characteristic" metadata, as defined by the present invention, include the name and address of the person generating the image (see page 12, lines 19-22). This "consumer characteristic" information enables a merchant to build up a direct mail database of consumers, or even an e-mail distribution list. With this information, the merchant can distribute tailored advertisement to the consumer based on the consumer identifying characteristics captured by the advertising generator. By knowing the name of the consumer, merchants can also create coupons and other advertisements which are addressed specifically to the holder of the coupon (specification, page 12 line 22 to page 13 line 2). Simply stated, the metadata utilized by Davis is "image characteristic" rather than "consumer characteristic" as in the present invention.

For these reasons, Applicants respectfully submit that the McIntyre and Davis references, alone or in combination, neither disclose nor suggest the claimed element of "reading consumer characteristic metadata associated with the digital image," thus claims 1 and 10 are now submitted as being in condition for allowance.
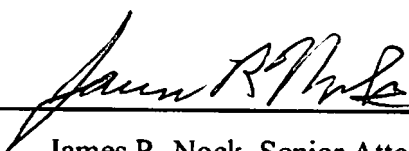
Claims 5-9, 14-17 and 23-24 rely, either directly or indirectly, from claims 1 and 10, thus claims 5-9, 14-17 and 23-24 are also now submitted as being in condition for allowance.

CONCLUSION

In view of the foregoing comments and amendments, the Applicants respectfully submit that all of the pending claims (i.e., claims 1, 5-10, 14-17, 23, and 24) are in condition for allowance and that the application should be passed to issue.

Date: <u>January 28, 2008</u>

Respectfully submitted,

By:_____

James R. Nock, Senior Attorney
Registration No.: 42,937
IBM Corporation - Department 917
3605 Highway 52 North
Rochester, Minnesota 55901-7829

Telephone: (507) 253-4661
Fax No.: (507) 253-2382

Docket No.: ROC920030065US1   9
Serial No.: 10/624,852